



3410–11–P; 4333–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2015–0003; FXFR13350700640–167–FF07J00000;

FBMS#4500096963]

RIN 1018–BA76

Subsistence Management Regulations for Public Lands in Alaska—2017–18 and 2018–19

Subsistence Taking of Fish Regulations

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, methods, and means related to taking of fish for subsistence uses in Alaska during the 2017–2018 and 2018–2019 regulatory years. The Federal Subsistence Board (Board) completes the biennial process of revising subsistence hunting and trapping regulations in even-numbered years and subsistence fishing and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use

determinations during the applicable biennial cycle. This rule also revises fish customary and traditional use determinations.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management website (<https://www.doi.gov/subsistence>). The comments received in response to the proposed rule are available on www.regulations.gov in Docket No. FWS–R7–SM–2015–0003.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786–3888 or subsistence@fws.gov. For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743–9461 or twhitford@fs.fed.us.

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the *Federal Register* on June 29, 1990 (55 FR 27114), and published final regulations in the

Federal Register on May 29, 1992 (57 FR 22940). The Program managers have subsequently amended these regulations a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, "Parks, Forests, and Public Property," and Title 50, "Wildlife and Fisheries," at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, USDA Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Council). The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

The Board addresses customary and traditional use determinations during the applicable biennial cycle. Section __.24 (customary and traditional use determinations) was originally published in the *Federal Register* on May 29, 1992 (57 FR 22940). The regulations at 36 CFR 242.4 and 50 CFR 100.4 define “customary and traditional use” as “a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation. . . .” Since 1992, the Board has made a number of customary and traditional use determinations at the request of affected subsistence users. Those modifications, along with some administrative corrections, were published in the *Federal Register* as follows:

Modifications to §__.24		
<i>Federal Register</i> citation	Date of publication	Rule made changes to the following provisions of __.24
59 FR 27462	May 27, 1994	Wildlife and Fish/Shellfish.
59 FR 51855	October 13, 1994	Wildlife and Fish/Shellfish.
60 FR 10317	February 24, 1995	Wildlife and Fish/Shellfish.
61 FR 39698	July 30, 1996	Wildlife and Fish/Shellfish.
62 FR 29016	May 29, 1997	Wildlife and Fish/Shellfish.
63 FR 35332	June 29, 1998	Wildlife and Fish/Shellfish.
63 FR 46148	August 28, 1998	Wildlife and Fish/Shellfish.
64 FR 1276	January 8, 1999	Fish/Shellfish.
64 FR 35776	July 1, 1999	Wildlife.
65 FR 40730	June 30, 2000	Wildlife.

66 FR 10142	February 13, 2001	Fish/Shellfish.
66 FR 33744	June 25, 2001	Wildlife.
67 FR 5890	February 7, 2002	Fish/Shellfish.
67 FR 43710	June 28, 2002	Wildlife.
68 FR 7276	February 12, 2003	Fish/Shellfish.
69 FR 5018	February 3, 2004	Fish/Shellfish.
69 FR 40174	July 1, 2004	Wildlife.
70 FR 13377	March 21, 2005	Fish/Shellfish.
70 FR 36268	June 22, 2005	Wildlife.
71 FR 15569	March 29, 2006	Fish/Shellfish.
71 FR 37642	June 30, 2006	Wildlife.
72 FR 12676	March 16, 2007	Fish/Shellfish.
72 FR 73426	December 27, 2007	Wildlife/Fish.
73 FR 35726	June 26, 2008	Wildlife.
74 FR 14049	March 30, 2009	Fish/Shellfish.
75 FR 37918	June 30, 2010	Wildlife.
76 FR 12564	March 8, 2011	Fish/Shellfish.
77 FR 35482	June 13, 2012	Wildlife.
79 FR 35232	June 19, 2014	Wildlife.
81 FR 52528	August 8, 2016	Wildlife.

Current Rule

The Departments published a proposed rule on February 22, 2016 (81 FR 8675), to amend the fish section of subparts C and D of 36 CFR part 242 and 50 CFR part 100. The proposed rule opened a comment period, which closed on April 1, 2016. The Departments advertised the proposed rule by mail, email, webpage, social media, radio, and newspaper, and comments were submitted via *www.regulations.gov* to Docket No. FWS–R7–SM–2015–0003. During that period, the Councils met and, in addition to other Council business, received suggestions for proposals from the public. The Board received a total of 15 proposals for changes to subparts C and D; this included 1 proposal that was deemed invalid because it was beyond the scope of the Board’s authority. After the comment period closed, the Board prepared

a booklet describing the proposals and distributed it to the public. The proposals were also available online. The public then had an additional 45 days in which to comment on the proposals for changes to the regulations.

The 10 Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. The Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a Council Chair, or a designated representative, presented each Council's recommendations at the Board's public meeting of January 10–12, 2017. These final regulations reflect Board review and consideration of Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. The public received extensive opportunity to review and comment on all changes.

Of the 14 valid proposals, 10 were on the Board's regular agenda and 4 were on the consensus agenda. The consensus agenda is made up of proposals for which there is agreement among the affected Councils, a majority of the Interagency Staff Committee members, and the Alaska Department of Fish and Game concerning a proposed regulatory action. Anyone may request that the Board remove a proposal from the consensus agenda and place it on the non-consensus (regular) agenda. The Board votes en masse on the consensus agenda after deliberation and action on all other proposals.

Of the proposals on the consensus agenda, the Board adopted one; adopted two with modification; and rejected one. Analysis and justification for the action taken on each proposal on the consensus agenda are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence

Management website (<https://www.doi.gov/subsistence>). Of the proposals on the regular (non-consensus) agenda, the Board adopted one; adopted three with modification; rejected one; deferred one; withdrew three at the requests of the proponents; and took no action on one.

Summary of Non-Consensus Proposals Not Adopted by the Board

The Board rejected, deferred, or took no action on three non-consensus proposals. The rejected proposals were recommended for rejection by one or more of the Councils unless noted below.

Yukon–Northern Area

The Board rejected a proposal to allow for the harvest of early-run Chinook Salmon in sub-district 5D of the Yukon River based on conservation concerns and treaty obligations. This action was supported by three Councils and contrary to the recommendation of one Council.

Kuskokwim Area

The Board deferred action on one proposal to restructure the management plans, fishing schedules, and methods and means and allow for independent action to be taken by the in-season manager on the Kuskokwim River. Action on this proposal was deferred until the next fish cycle, until the affected entities come to a conclusion, or a request to readdress this proposal is submitted.

Cook Inlet Area

The Board took no action on one proposal for the Kenai River. This decision was based on its earlier action on a similar proposal addressing a community gillnet.

Summary of Non-Consensus Proposals Adopted by the Board

The Board adopted or adopted with modification four non-consensus proposals. Modifications were suggested by the affected Council(s), developed during the analysis process, or developed during the Board's public deliberations. All of the adopted proposals were recommended for adoption by at least one of the Councils unless noted below.

Yukon-Northern Area

The Board adopted a proposal to revise harvest limits to allow harvest once the mid-range of the interim management escapement goal and the total allowable catch goal are projected to be achieved on the Yukon River.

The Board adopted a proposal with modification to revise the methods and means for the use of gillnets in Racetrack Slough of the Koyukuk River and the sloughs of the Huslia River drainage.

Cook Inlet Area

The Board adopted a proposal with modification to revise the season dates for the experimental community gillnet fishery on the Kasilof River for the residents of Ninilchik.

The Board adopted a proposal to revise the season dates, reporting requirements, and household harvest limits, require the live release of Rainbow Trout and Dolly Varden, remove the requirement of an operational plan, and revise permit conditions for the community gillnet fishery on the Kenai River for the residents of Ninilchik.

These final regulations reflect Board review and consideration of Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. Because this rule concerns public lands managed by an agency or agencies in both the

Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Conformance with Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the *Federal Register*, participation in multiple Council meetings, additional public review and comment on all proposals for regulatory change, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change (36 CFR 242.20 and 50 CFR 100.20). Therefore, the Board believes that sufficient public notice and opportunity for involvement have been given to affected persons regarding Board decisions.

In the more than 25 years that the Program has been operating, no benefit to the public has been demonstrated by delaying the effective date of the subsistence regulations. A lapse in regulatory control could affect the continued viability of fish or wildlife populations and future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(d)(3) to make this rule effective upon the date set forth in **DATES** to ensure continued operation of the subsistence program.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement that described four alternatives for developing a

Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

The following *Federal Register* documents pertain to this rulemaking:

Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C: <i>Federal Register</i> Documents Pertaining to the Final Rule			
<i>Federal Register</i> citation	Date of publication	Category of document	Details
57 FR 22940	May 29, 1992	Final Rule	“Subsistence Management Regulations for Public Lands in Alaska; Final Rule” was published in the <i>Federal Register</i> .
64 FR 1276	January 8, 1999	Final Rule	Amended the regulations to include subsistence activities occurring on inland navigable waters in which the United States has a reserved water right and to identify specific Federal land units where reserved water rights exist. Extended the Federal Subsistence Board's management to all Federal lands selected under the Alaska Native Claims Settlement Act and the Alaska Statehood Act and situated within the boundaries of a Conservation System Unit, National Recreation Area, National Conservation Area, or any new national forest or forest addition, until conveyed to the State of Alaska or to an Alaska Native Corporation. Specified and clarified the Secretaries’ authority to determine when hunting, fishing, or trapping activities taking place in Alaska off the public lands interfere with the subsistence priority.
66 FR 31533	June 12, 2001	Interim Rule	Expanded the authority that the Federal Subsistence Board may delegate to agency field officials and clarified the procedures for enacting emergency or temporary restrictions, closures, or openings.

67 FR 30559	May 7, 2002	Final Rule	Amended the operating regulations in response to comments on the June 12, 2001, interim rule. Also corrected some inadvertent errors and oversights of previous rules.
68 FR 7703	February 18, 2003	Direct Final Rule	Clarified how old a person must be to receive certain subsistence use permits and removed the requirement that Regional Advisory Councils must have an odd number of members.
68 FR 23035	April 30, 2003	Affirmation of Direct Final Rule	Because no adverse comments were received on the direct final rule (67 FR 30559), the direct final rule was adopted.
69 FR 60957	October 14, 2004	Final Rule	Clarified the membership qualifications for Regional Advisory Council membership and relocated the definition of “regulatory year” from subpart A to subpart D of the regulations.
70 FR 76400	December 27, 2005	Final Rule	Revised jurisdiction in marine waters and clarified jurisdiction relative to military lands.
71 FR 49997	August 24, 2006	Final Rule	Revised the jurisdiction of the subsistence program by adding submerged lands and waters in the area of Makhnati Island, near Sitka, AK. This allowed subsistence users to harvest marine resources in this area under seasons, harvest limits, and methods specified in the regulations.
72 FR 25688	May 7, 2007	Final Rule	Revised nonrural determinations.
75 FR 63088	October 14, 2010	Final Rule	Amended the regulations for accepting and addressing special action requests and the role of the Regional Advisory Councils in the process.
76 FR 56109	September 12, 2011	Final Rule	Revised the composition of the Federal Subsistence Board by expanding the Board by two public members who possess personal knowledge of and direct experience with subsistence uses in rural Alaska.
77 FR 12477	March 1, 2012	Final Rule	Extended the compliance date for the final rule (72 FR 25688, May 7, 2007) that revised nonrural determinations until the Secretarial program review is complete or in 5 years, whichever comes first.
80 FR 68249	November 4, 2015	Final Rule	Revised the nonrural determination process and allowed the Federal Subsistence Board to define which communities and areas are nonrural.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the "may significantly restrict" threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act of 1995 (PRA)

An agency may not conduct or sponsor and you are not required to respond to a

collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires June 30, 2019.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In

general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of \$3.00 per pound, this amount would equate to about \$6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule

is by Federal agencies, and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Board provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: “The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.”

The Secretaries, through the Board, provided a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Council

meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

On April 12, 2016, the Board provided Federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule prior to the start of its public regulatory meeting. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Carol Damberg, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, USDA Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands,
Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands,
Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board amends title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART ____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

2. Amend §____.24(a)(2) in the table by revising the seventh entry under “PRINCE WILLIAM SOUND AREA:” to read as follows:

§____.24 Customary and traditional use determinations.

(a) * * *

(2) * * *

Area	Species	Determination
* * * * *		
PRINCE WILLIAM SOUND AREA:		

* * * * *		
Glennallen Subdistrict of the Upper Copper River District	Salmon	Residents of the Prince William Sound Area and residents of Cantwell, Chickaloon, Chisana, Dot Lake, Dry Creek, Healy Lake, Northway, Tanacross, Tetlin, Tok, and those individuals living along the Alaska Highway from the Alaskan/Canadian border to Dot Lake, along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.
* * * * *		

* * * * *

Subpart D—Subsistence Taking of Fish and Wildlife

3. Amend §____.27 by:

- a. Adding paragraph (e)(3)(xiii)(B);
- b. Revising paragraphs (e)(3)(xv)(A) and (B);
- c. Adding paragraph (e)(3)(xvi)(F);
- d. Revising paragraph (e)(10)(iv)(I) introductory text, and paragraph (e)(10)(iv)(J); and
- f. Revising paragraph (e)(13)(ix).

The additions and revisions read as follows:

§____.27 Subsistence taking of fish.

* * * * *

(e) * * *

(3) * * *

(xiii) * * *

(B) In Subdistrict 5D you may take salmon once the mid-range of the Canadian interim management escapement goal and the total allowable catch goal are projected to be achieved.

* * * * *

(xv) * * *

(A) In Subdistrict 4A upstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2; unless closed by the Federal In-season Manager; from June 10 through August 2, the Federal In-season Manager may open fishing periods during which chum salmon may be taken by drift gillnets.

(B) In Subdistrict 4A downstream from the mouth of Stink Creek, you may take Chinook salmon by drift gillnets less than 150 feet in length from June 10 through July 14; unless closed by the Federal In-season Manager; from June 10 through August 2, the Federal In-season Manager may open fishing periods during which chum salmon may be taken by drift gillnets.

* * * * *

(xvi) * * *

(F) In Racetrack Slough on the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank except that sloughs 40 feet or less in width may have $\frac{3}{4}$ width coverage with set gillnet, unless closed by Federal special action.

* * * * *

(10) * * *

(iv) * * *

(I) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon through an experimental community gillnet fishery in the Federal public waters of the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch June 16–August 15. The experimental community gillnet fishery will expire 5 years after approval of the first operational plan.

* * * * *

(J) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon in the Federal public waters of the Kenai River with a single gillnet to be managed and operated by the Ninilchik Traditional Council. Ninilchik residents may retain other species incidentally caught in the Kenai River except for rainbow trout and Dolly Varden; all rainbow trout and Dolly Varden must be released.

(1) Only one community gillnet can be operated on the Kenai River. The gillnet cannot be over 10 fathoms in length, must be no larger than 5.25-inch mesh, and may not obstruct more than half of the river width with stationary fishing gear. Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(2) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager. The registration permit will be issued to the Ninilchik Traditional Council.

(i) As the community gillnet owner, the Ninilchik Traditional Council will be responsible for its use and removal in consultation with the Federal fishery manager.

(ii) As part of the permit, after the season, the Ninilchik Traditional Council must provide written documentation of required evaluation information to the Federal fishery manager

including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.

(3) The Ninilchik Traditional Council may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(i) Identifies a person who will be responsible for fishing the gillnet;

(ii) Includes provisions for recording daily catches within 72 hours, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(4) Fishing will be allowed from July 1 through August 15 and September 10–30 on the Kenai River unless closed or otherwise restricted by Federal special action.

(5) Salmon taken in the gillnet fishery will be included as part of the dip net/rod and reel household annual limits for the Kenai River of participating households.

(6) Fishing for each salmon species will end and the fishery will be closed by Federal special action prior to regulatory end dates if the annual total harvest limit for that species is reached or superseded by Federal special action.

* * * * *

(13) * * *

(ix) Nets are prohibited in streams flowing across or adjacent to the roads on Wrangell and Mitkof islands, and in streams flowing across or adjacent to the road systems connected to the community of Sitka.

* * * * *

Dated: December 5, 2017.

Eugene R. Peltola, Jr.

Assistant Regional Director,

U.S. Fish and Wildlife Service

Acting Chair, Federal Subsistence Board.

Dated: December 6, 2017.

Thomas Whitford

Subsistence Program Leader

USDA–Forest Service.

[FR Doc. 2018-00461 Filed: 1/22/2018 8:45 am; Publication Date: 1/23/2018]